

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 ROWENA WAGNER,
4 Plaintiff

5 v.

:
:
:
: Case No. 04-264 Erie
:

6 CRAWFORD CENTRAL SCHOOL DISTRICT;
7 CRAWFORD CENTRAL SCHOOL BOARD;
8 MICHAEL E. DOLECKI, SUPERINTENDENT;
9 CHARLES E. HELLER, III, ASSISTANT
10 SUPERINTENDENT,
11 Defendants

12 and

13 THE CRAWFORD CENTRAL EDUCATION
14 ASSOCIATION,
15 Defendant

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16 Deposition of JOYE PICKENS, taken before
17 and by Sondra A. Black, Notary Public in and for the
18 Commonwealth of Pennsylvania, on Tuesday, October 25,
19 2005, commencing at 10:58 a.m., at the Crawford County
20 Courthouse, Meadville, Pennsylvania 16335.

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22
23
24 Reported by Sondra A. Black
25 Ferguson & Holdnack Reporting, Inc.

A P P E A R A N C E S

For the Plaintiff:

Caleb L. Nichols, Esquire
P.O. Box 1585
Erie, PA 16507

For Crawford Central School District; Crawford Central School Board; Michael E. Dolecki, Superintendent; Charles E. Heller, III, Assistant Superintendent:

Mark J. Kuhar, Esquire
Knox McLaughlin Gornall & Sennett, PC
120 West Tenth Street
Erie, PA 16501

For The Crawford Central Education Association:

Shannon McCune Wagner, Esquire
10 South 19th Street
Pittsburgh, PA 15203

I N D E X

JOYE PICKENS

Direct Examination by Mr. Nichols.....	4
Cross-Examination by Ms. Wagner.....	23
Cross-Examination by Mr. Kuhar.....	25
Redirect Examination by Mr. Nichols.....	38

EXHIBIT

Pickens Deposition Exhibit A.....	8
Pickens Deposition Exhibit B.....	8
Pickens Deposition Exhibit C.....	9

1 J O Y E P I C K E N S, first having been
2 duly sworn, testified as follows:
3

4 DIRECT EXAMINATION

5 BY MS. PICKENS:
6

7 Q. Ms. Pickens, I'm Caleb Nichols, and thank you for
8 coming today to be deposed in this lawsuit. Ms. Wagner, is
9 suing the Crawford Central School District. I understand you
10 were previously employed with the School District.

11 A. Um-hum.

12 Q. And you're now retired.

13 A. Right.

14 Q. Enjoying your retirement?

15 A. Absolutely.

16 Q. I have just a few preliminary remarks I'd like to
17 make of an instructional nature during the course of this
18 deposition. First I would ask that you verbalize all of your
19 responses, and that is because the record we seek to have
20 transcribed here, and -- we hope that that be as clear and
21 understandable as possible. If at any time you don't
22 understand my Virginia voice, then please let me know and
23 I'll try to clear it up and make it as understandable as
24 possible. Okay. If at any time you wish to go off the
25 record, let me know, and we will go off the record, okay, to

1 oblige you in any way you wish.

2 MR. KUHAR: He means to take a break. When he says
3 "go off the record," he means to take a break.

4 THE WITNESS: I was wondering "go off the record."
5 Restroom, drink.

6 Q. Right. I have some questions I'd like to pose, then
7 after which my colleagues, Mr. Kuhar, who represents the
8 School District, and Ms. Wagner, who represents the
9 Association, the Union, may have some questions. Okay.
10 That's how we would like to proceed.

11 Are there any questions you have before we get
12 started?

13 A. Not yet.

14 Q. For the record, will you state your full name.

15 A. Joye Louise Pickens.

16 Q. Where do you reside, Ms. Pickens?

17 A. ~~123 Third Street, Cochranton, Pennsylvania~~

18 Q. Bring us -- if we might start with your
19 undergraduate background and come forward.

20 A. I graduated from Edinboro State University with a
21 Bachelor's in '69 and with a Master's in '72. And I was
22 employed by Crawford County for two years, and then they
23 bought my special education room and I've been employed by
24 Crawford Central since then. Is that what you mean?

25 Q. And you started with Crawford Central when?

1 A. Crawford County in '69.

2 Q. And that was as a teacher?

3 A. Yeah. In special education. And at that time the
4 County owned the classroom. And then the District bought it,
5 and I continued in the room.

6 Q. And you retired for the Crawford --

7 A. This is my second year.

8 Q. And your tenure with the Crawford Central School
9 District from '69 until your most recent retirement was
10 uninterrupted you're telling us? There was no interruption?

11 A. No. I have always worked in that building.

12 Q. As a teacher?

13 A. Right.

14 Q. Do you know Ms. Wagner, of course.

15 A. Um-hum.

16 Q. How did you come to know Ms. Wagner?

17 A. She student taught in our building a couple doors
18 down from me.

19 Q. What years are we talking about?

20 A. I don't know.

21 Q. Estimate. I mean, approximate the year. Do you
22 know? Was it 2000? Before --

23 A. I don't know.

24 Q. Did she student teach for you?

25 A. No. Two doors down from --

1 Q. And your colleague that she taught -- student taught
2 under one of your colleagues?

3 A. Right. First grade. Right down the hall.

4 Q. At that time, before she started substituting, of
5 course, she was in college, of course, at that time?

6 A. Um-hum.

7 Q. Did you have an opportunity to talk to your
8 colleagues about her?

9 A. Yeah. When she was student teaching. We do that,
10 you know, how are they doing. You know, we observe, try to
11 help out when we can.

12 Q. What was the -- in terms of her student teaching,
13 how well --

14 A. She did a good job.

15 Q. She did a good job?

16 A. Yeah. I didn't observe her in the classroom, but I
17 talked to her teacher, and -- just the way we do with student
18 teachers, you know.

19 Q. When she started to teach as a substitute in 2001 at
20 Crawford Central School District, did -- I know that you
21 asked her, are you -- she was to substitute for you in 2002,
22 I believe, when you went on sabbatical; is that correct?

23 A. Well, yeah. I requested her -- initially I thought
24 I could request her for the whole time, but then I had a
25 discussion in the office and it was brought to my attention

1 that I couldn't formally request --

2 Q. Let me approach it this way, and -- let me just stop
3 here, if I might, because I want, just for the record, mark
4 this Exhibit A. Exhibit A shows that you're appearing here
5 today pursuant to a subpoena which you received, of course.

6 And then there is Exhibit B. Exhibit B is the
7 Defendants' responses to the Plaintiff's First Request for
8 Admissions, which were directed to Defendants Crawford
9 Central School District; Crawford Central School Board;
10 Michael Dolecki, superintendent; Charles Heller, III,
11 assistant superintendent.

12 Part of Exhibit B I want to focus on has to do --
13 this is Page 2, Paragraph No. 2, Request for Admissions, and
14 the answer that was given by the Defendant, states -- in
15 Paragraph 2, Page 2, says, "The Plaintiff's request for
16 admission No. 2 is vague in that it does not specify a date
17 for a letter drafted by Ms. Pickens. Without waiving their
18 objection, the Defendants admit that the District received a
19 letter attached hereto as Exhibit A."

20 (Pickens Deposition Exhibits A and B marked for
21 identification.)

22 MS. WAGNER: Mr. Nichols, do you have a copy of
23 that for us? Do you have a copy?

24 MR. NICHOLS: No. I didn't get a chance to make a
25 copy.

1 MS. WAGNER: I'd like to see it.

2 MR. NICHOLS: Paragraph 2.

3 MS. WAGNER: Are you going to be questioning
4 Ms. Pickens on this paragraph?

5 MR. NICHOLS: No. My question is for the record.
6 I was stating as background information to my
7 question.

8 Q. Paragraph 2 is, the Defendant acknowledged receipt
9 of a letter, which I would now have it marked as Exhibit C, a
10 letter prepared by Ms. Pickens. And the letter marked
11 Exhibit C I show now to Ms. Pickens. Ms. Pickens, your name
12 appears at the bottom there. Do you recognize that letter?

13 (Pickens Deposition Exhibit C marked for
14 identification.)

15 A. Yeah.

16 Q. You prepared the letter?

17 A. Right.

18 Q. The letter was sent to whom? Do you remember?

19 A. Pardon?

20 Q. The letter was sent to whom? To whom was the letter
21 sent?

22 A. Well, Dr. Heller -- some -- I don't know. "To whom
23 it may concern." I sent it to the board, basically. To
24 whomever it was --

25 Q. The School District?

1 A. Right. Yeah.

2 Q. Okay. All right. Well, anyway, Exhibit A
3 acknowledges that the Defendant did receive it. So let's
4 not -- okay. And you recognize it as the letter that you
5 composed, right?

6 A. Yeah.

7 Q. All right. Fine.

8 A. I just haven't seen it for a while.

9 MS. WAGNER: May I see that exhibit also?

10 MR. NICHOLS: Sure.

11 MS. WAGNER: Thank you.

12 Q. Now, based on having read the letter, tell us, why
13 did you ask that Ms. Wagner substitute for you during the
14 course of your sabbatical? This was a medical sabbatical, I
15 understand.

16 A. Um-hum. You want all the reasons why you request a
17 sub?

18 Q. Well, why did you request Ms. Wagner for this
19 occasion to substitute for you?

20 A. Okay. Well, I'd observed her subbing, and she had
21 subbed the year before for me off and on, and it's been my
22 habit to evaluate the class every year and start training a
23 sub for my sick days and stuff because, you know, things come
24 up. You have to have a sub, and I never know when I'm going
25 to have to take an extended leave. So I like to train

1 somebody. And I was satisfied with everything she was doing,
2 and I observed her with other classes and everything, so I
3 started training her in my room -- in 2001 I think we
4 started, you know, working with her. And I -- you know, you
5 go in and you know when you've had a good sub because you --

6 Q. Was this the first time she had subbed for you or
7 she had subbed for --

8 A. No. She'd been subbing.

9 Q. For you?

10 A. Yeah.

11 Q. Before November 2002?

12 A. Yeah. Off and on she subbed for me. You know,
13 sometimes you can't always get who you ask for through the
14 sub service, but I requested her, and she does a lot of work
15 in our building. And I was really satisfied. I could come
16 in the next day and quiz the kids on the lesson she was
17 supposed to do -- I was just satisfied, very much so.

18 Q. How many times, approximately, had she subbed for
19 you prior to November 2002? Your best estimate.

20 A. I don't know.

21 Q. Would it have been four or five times?

22 A. I didn't check my records on that. Frequently.

23 Q. But it would have been more than certainly two or
24 three, right, occasions?

25 A. Yeah. I'm sure there's a record of it.

1 Q. Now, you have taught, you say, 35 years at the
2 School District.

3 A. Yeah. At the end, yeah. I went back and --

4 Q. And during the course of 35 years, you've had
5 opportunity to evaluate a lot of student teachers, have you
6 not?

7 A. Yeah.

8 Q. And substitute teachers?

9 A. Mostly substitute teachers.

10 Q. And based upon that life experience of teaching,
11 what are the qualities of a good teacher?

12 A. To maintain discipline, to have a pleasant
13 mannerism, get your message across, keep going over it till
14 it gets across, and the kids have to like you, too. You
15 know, you have to be personable, caring.

16 Q. Did you observe those qualities?

17 A. Well, I wasn't there the day she was there.

18 Q. But my --

19 MR. KUHAR: She needs to be able to finish it. And
20 then you can ask whatever follow-up you want.

21 A. Like when you come back the next day, you look for
22 how was the room left, first of all. Were they able to
23 maintain order in the room, accomplish the work in an orderly
24 fashion. And you can tell. I've come back in and sometimes
25 it's like, who was in my room. I can't find a thing. But

1 when she did it, everything was in order, the games were put
2 away, my desk was better than I left it. You know, she'd
3 neat up things. And the work was always corrected and --
4 notes. She was good on leaving notes. Like this person
5 needs help with this or -- I was just impressed. She took
6 the job as seriously as I did from what I could, you know --

7 Q. When you drafted this letter, which has now been
8 Exhibit C, you had that in mind; didn't you?

9 A. Oh, yeah. Because I'd be working, you know, to get
10 her -- it was pretty clear that I probably was going to take
11 some time off that year because I was having a lot of
12 trouble.

13 Q. Now, when you wrote this letter to whomever it may
14 concern, the administration, on November 17, 2002, you
15 mentioned -- and then, did you have subsequent conversations
16 with Mr. Heller or Mr. Dolecki concerning Ms. Wagner's
17 replacement?

18 A. Yeah. I don't know how the timing went on that. If
19 I wrote the letter before or after I had a discussion in the
20 office.

21 Q. With Mr. Heller or Mr. Dolecki?

22 A. Heller.

23 Q. Mr. Heller?

24 A. Yeah. In the office, in our building.

25 Q. What was the nature of the discussion, as best you

1 recollect when you --

2 A. Well, that I was going to use my sick days until
3 semesters, and at semesters, it came up -- it would come up
4 for bid for a sub. I was using my sick days until semesters,
5 and then I would take an official leave.

6 Q. Now, the time frame here we're talking about --
7 Ms. Wagner, I think, began in your position, replacing you,
8 on or about November 7, 2002; is that correct? I think
9 that's correct, 2002.

10 A. I wish I could be more precise, but --

11 Q. It was on --

12 A. -- when I quit teaching, she was in the room.

13 Q. Right.

14 A. I'm not sure of the date.

15 Q. Now, when you met with Mr. Heller to discuss, as
16 best you can remember, you tell us what was the general --
17 your general understanding as to how long Ms. Wagner would
18 replace you as a substitute.

19 A. Well, I was surprised about the conversation because
20 I'd taken sabbaticals before, and I just talked to the
21 principal and my request had been honored for that. So the
22 conversation was --

23 Q. Excuse me. You say you asked the principal
24 before --

25 A. This was my second sabbatical.

1 Q. And before --

2 MR. KUHAR: Can she finish her last answer.

3 Q. Did you finish your last answer?

4 A. Well, this was my second sabbatical, and before I
5 had requested a teacher and it was just okay. So -- but he
6 was explaining that that wasn't going to be the policy.
7 That -- and I could use my sick days up until sabbatical.
8 And I said, well, then is there a problem requesting for
9 then. And he said he didn't think there would be a problem
10 up until semesters. And we got that clear that at semesters
11 it was going to come up for bid.

12 Q. And by "semesters" we're talking about January?

13 A. I don't know. Whenever semesters changed.

14 Q. What is the sequence then of --

15 A. Sometime in January.

16 Q. So it would have been January --

17 A. I don't know when semesters end and begin. I've
18 been out of the loop too long, I guess. I'm enjoying
19 retirement. But I was surprised. And so I made clear that I
20 understood that so I could relay it to Rowena because we
21 thought it would be the whole time. But there had been a
22 change. So until semesters, since I was using my sick days,
23 at that day it was my understanding there wouldn't be a
24 problem with her being in my room.

25 So that's why I went and -- I don't know if I talked

1 to you that day or whatever, but we had been talking about
2 what was going to happen, and so we started establishing -- I
3 think even Thanksgiving -- what I wanted for Thanksgiving,
4 and then in December I do holidays around the world. And so
5 I -- we just lined up everything until semesters because we
6 didn't know what would happen after semesters. But we lined
7 up everything until semesters. Is that answering --

8 Q. Yeah. Now, during your conversation with
9 Mr. Heller, you said that there was a change.

10 A. Probably not in policy, but in practice.

11 Q. Speak to that, please, Ms. Pickens.

12 A. The policy I don't think says you can request one.
13 But it's been the practice, over my leaves and, you know,
14 times, that I would talk to the principal -- I'm pretty sure,
15 yeah, just the principal. And they'd say, well, is there
16 somebody you want to continue in your room. And I would name
17 somebody, and if they were available, then they were in
18 there. To me, it had never been an issue before --

19 Q. Now, you said --

20 A. -- so I was kind of surprised.

21 Q. Now, you're speaking on the basis of 35 years of
22 experience, that's a long time, as to a practice you say.
23 Now you say --

24 A. Yeah. I guess --

25 Q. -- in 2002 that was a change -- Mr. Heller's telling

1 you now this is going to change.

2 A. Well, things change. I just --

3 Q. But that's what he told you, right?

4 A. Yeah. There had been some administrative changes
5 and stuff, I just -- there had been a change. So we talked
6 about it.

7 Q. Were you surprised, then, to find out that, one, on
8 or about November -- at about November, I think -- on or
9 about November 27, 2002 Mr. Heller had made a classroom
10 observation of Ms. Wagner --

11 A. I wasn't aware of --

12 Q. -- and then, subsequently, four days later Mr. Meter
13 conducted a classroom observation of Ms. Wagner, and then she
14 was subsequently dismissed? Were you surprised to find out
15 she was no longer in your classroom?

16 A. Um-hum. Yeah.

17 Q. You were surprised?

18 A. Yeah.

19 Q. Why were you surprised?

20 A. Well, I had the conversation with Dr. Heller, and I
21 thought my sick days, up until semesters, were going to be --
22 she would be in my room till then, as I said, and then the
23 room went up for bid. Because I was using sick days, and
24 usually you can request the sub for your sick days. See what
25 I'm --

1 Q. Um-hum. I understand.

2 A. So I thought that's just the way it was going to be.
3 So before my sick days were over, I was surprised that they
4 had changed the sub.

5 Q. When you and Mr. Heller had this discussion based
6 upon your letter here requesting Ms. Wagner to substitute or
7 replace you during your sabbatical during this period, was
8 Mr. Meter privy to that conversation? It occurred in
9 Mr. Heller's office; didn't it?

10 A. No. It was in the off -- the secretary's office.
11 The -- not a private office. It was just by the counter --

12 Q. All right. Was Mr. Meter also privy to that
13 conversation between you and Mr. Heller?

14 A. I honestly don't remember who was there because I
15 was having the conversation with him. I don't know. I don't
16 remember. To the best of my memory, I don't think so. But
17 I -- you know how you're just standing around having a
18 conversation.

19 Q. I understand.

20 A. My conversation was with him. I don't remember.

21 Q. The conversation you had with Mr. Heller on that
22 occasion, was that reduced to writing or -- did he send you a
23 letter which would set down in writing his understanding of
24 the conversation with him, or was it just simply verbal?

25 A. You know, I don't remember that. I could check my

1 files. I just didn't think about that. I don't --

2 Q. I want to turn again, now, to your observation of
3 Ms. Wagner's teaching. What would you say, based upon your
4 observation or the times she substituted for you, which was
5 more than one or two you say -- what were her strengths?
6 Where do her strengths lie in the classroom as a teacher?

7 A. Organization, discipline. She accomplished the task
8 for the day, you know, whatever lesson, and if she couldn't
9 accomplish something, she always left very clear notes, which
10 not all subs do. You know, like, I don't think this concept
11 was as clear as it could have been or this went over well,
12 you may want to stress this with whoever, this kid had -- I
13 mean, very good notes, and they don't all do that. I'd
14 always come in a little early after I was out and go through
15 the material, and I always knew where I stood. And I really
16 appreciated that.

17 Q. Did the children like her?

18 A. Yeah.

19 Q. You could tell that?

20 A. Yeah. You get a feeling, you know, because most of
21 the time I'd know who was going to be off, and I would say
22 who was going to come in if I was pretty sure or -- I'd give
23 feelers out. Who do you want in today or different things.
24 And you don't want the one that's totally, wow, because
25 usually games happened all day. But, no, they had a good

1 response to her.

2 Q. Also, based upon your observations of Ms. Wagner's
3 teaching, did you observe anything which would disqualify her
4 from becoming a full-time teacher? Anything that would have
5 disqualified her from becoming a full-time teacher?

6 A. No. Not that I can -- no.

7 Q. Let me ask you this: Do you recall an occasion
8 which Mr. Heller accused you and Ms. Wagner of "playing
9 politics" to obtain a teaching position for Ms. Wagner?

10 A. With me? A conversation between us?

11 Q. When Mr. Heller accused you and Ms. Wagner of
12 playing politics.

13 A. No. I think I would remember if someone accused me
14 of playing politics. To my face? A conversation?

15 Q. Well, I mean, it -- anything which approached that?
16 Approximate that?

17 MR. KUHAR: I just note an objection. I think the
18 question is pretty vague at this point. You were
19 asking her whether she had a conversation which
20 that was said by Mr. Heller; wasn't that the
21 question?

22 MR. NICHOLS: Or she understood or overheard him to
23 say, direct a remark that she and Ms. Wagner
24 playing politics --

25 MS. WAGNER: I'm confused also.

1 A. I don't play politics, so I don't understand --

2 Q. I'm simply saying -- not you. Understand, I'm
3 saying the remark directed at you, that you and Ms. Wagner
4 playing politics to have Ms. Wagner get a long-term teaching
5 position.

6 MR. KUHAR: He's asking whether that was said to
7 you by Mr. Heller.

8 Q. By Mr. Heller.

9 MS. WAGNER: To the best of your recollection.

10 A. I'm searching. I have retirement brain right now.

11 MR. KUHAR: Take your time.

12 A. I think my immediate response to that would have
13 been of frustration and denial, and a few other things, and I
14 don't remember those feelings, because I don't do that. I
15 don't play games. I'm not a game player.

16 Q. I'm not saying you're guilty of that.

17 A. No. I -- I think I would have been upset if
18 someone --

19 Q. That you heard the remark --

20 A. To my face -- I may have heard rumors or something,
21 I don't remember. But to my face, I don't recall an
22 interaction in which I was accused of trying to get a
23 position for her through politics. I tried to get the
24 position for her because I thought she was the best sub for
25 that class that year.

1 Q. Okay. Fine.

2 A. That's all I can say about that.

3 Q. Did Ms. Wagner ever express to you frustrations or
4 difficulties she was having in obtaining a long-term teaching
5 position?

6 A. Well, yeah. I mean, that's a complaint for all
7 subs, but it seemed like it was a -- for as good as she was,
8 I really didn't understand, and nor did a lot of the other
9 teachers, why she hadn't obtained a position when the
10 openings were coming, you know.

11 Q. Do you know of other substitute teachers who have
12 filed grievances against the administration --

13 A. No.

14 Q. -- or the School District for alleged
15 discrimination?

16 A. No.

17 Q. Sexual harassment?

18 A. I don't follow those things.

19 Q. Have you recommended potential candidates or
20 applicants to the administration for teaching positions
21 during the course of your tenure?

22 A. Could -- I could. I do a lot of recommendations for
23 different things. I would have to go to the records of the
24 School District on that.

25 MR. KUHAR: I think he means, sitting here today,

1 can you remember doing so?

2 THE WITNESS: I could have written one for --

3 MR. KUHAR: If you can't remember --

4 THE WITNESS: I don't remember.

5 MS. WAGNER: Only if you remember.

6 THE WITNESS: I don't remember.

7 Q. Do you know of other teachers or Union officials who
8 have recommended -- Union officials, members of the Union,
9 recommended applicants or candidates for teaching positions?

10 A. No. I just don't get involved in things. That's
11 probably not good, but -- I just go and teach and --

12 MR. NICHOLS: Excuse me one moment. We don't -- I
13 don't have any more questions. Mr. Kuhar?

14 Ms. Wagner?

15

16 CROSS-EXAMINATION

17 BY MS. WAGNER:

18

19 Q. Ms. Pickens, I have some questions for you, and I'm
20 representing the Education Association here today. The prior
21 leaves that you took, did they occur over a semester break as
22 this last one did?

23 A. Well, I took some -- I took a semester, it was never
24 a whole year. I don't -- I should have gone over my records.

25 Q. That's all right. What I'm asking about, you were

1 talking about being able to recommend a substitute while you
2 were taking sick leave; is that correct?

3 A. Um-hum.

4 Q. But then, if your sick leave extended over a
5 semester break at the end of the semesters, how did that
6 affect selecting a -- your input on selecting someone?

7 A. I don't know as there was -- it -- the sub just
8 stayed there. I didn't -- I wasn't ever aware of it going up
9 for bid, that kind of thing. But, you know, things change
10 administratively, and I just thought that was --

11 Q. At the time when Ms. Wagner was subbing for you,
12 there was a change in policy that you're aware of?

13 A. Well, that was the first time I was aware of it,
14 yeah.

15 Q. When did you actually observe Ms. Wagner in a
16 classroom situation?

17 A. Maybe I was vague about that. I didn't observe her
18 in a classroom situation. I observed the results of her
19 being in a classroom situation. I discussed it with her
20 cooperating teacher when she student taught, and the results
21 of her being my sub, and the results of her subbing with
22 other people. You can observe them, you go to assemblies,
23 you notice how they handle the discipline during the
24 assembly. There's -- but in the actual classroom, teaching a
25 lesson, I never observed her. Just how she handled students

1 in the cafeteria, hallway, you know, different things like
2 that. Professional discussions about different things.

3 MS. WAGNER: No further questions right now.

4

5

CROSS-EXAMINATION

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BY MR. KUJAR:

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Q. I have a few. I represent the other Defendants,
which are the School Board, the District, Mr. Heller, and
Mr. Dolecki. You said that you, and I think you said some of
the other teachers, were sort of surprised that Ms. Wagner
had not gotten a permanent position because you had this good
view of her --

14

A. Yeah.

15

Q. -- is that right?

16

A. Basically, yeah.

17

Q. You're aware that teachers have bidding rights?

18

A. Right.

19

Q. You had them?

20

A. Yeah.

21

22

23

24

25

Q. Do you know how many elementary positions were
filled from the time that Ms. Wagner started subbing in
August of -- and you have to let me finish the whole
question. It may be long, but they're designed to actually
be efficient.

1 A. I was shaking.

2 Q. Do you know how many elementary positions were
3 filled with outside candidates -- in other words, people who
4 had no bidding rights -- from the time that Ms. Wagner began
5 subbing in approximately August of 2001 until your leave
6 began? Do you know how many elementary positions became open
7 and then were not filled by people with bidding rights? Do
8 you understand the question?

9 A. I think I do. But that was not a concern of mine,
10 so that information wouldn't have been -- no.

11 Q. So you don't know?

12 A. No.

13 Q. You didn't track the information at that time? You
14 had no reason to?

15 A. No.

16 Q. What if I told you that there were none? What if I
17 told you that not a single elementary teacher was hired from
18 the outside during that period? Do you have any reason to
19 think that that's false?

20 A. No. Because -- no. There are records of all this,
21 so if you're saying it, I assume it's true.

22 Q. Okay. If there were some filled with external
23 candidates during that period, do you have any reason to
24 think that the District did not choose the most qualified
25 people?

1 A. I hope they do. I have --

2 Q. You really don't know?

3 A. No.

4 Q. Because you weren't involved in the interviews --

5 A. No.

6 Q. -- if there even were any?

7 A. No.

8 Q. If you don't know the answers, you don't know. I'm
9 not trying to ask trick questions. I'm just trying to
10 confirm what you remember, what you don't remember, and maybe
11 even what you never knew or did know at some point, so please
12 bear with me. I'm not trying to frustrate you.

13 A. No. I'm just nervous.

14 Q. Do you recall when Mr. Charlie Heller joined the
15 District as an administrator?

16 A. Um-hum. I was teaching then.

17 Q. Do you recall whether it was February of 2002?

18 A. No.

19 MS. WAGNER: Was that a yes?

20 THE WITNESS: I just -- when I was teaching, there
21 was a change.

22 Q. You were describing Ms. Wagner's strengths as a
23 substitute, and you clarified that most of -- most of the
24 reason that you feel that way is because you could tell
25 whether an effective sub had been in or not when you

1 returned; is that right?

2 A. That's true.

3 Q. You had also clarified that you had not actually
4 observed her teaching performance. You did that towards the
5 end of Mr. Nichols' questions, right? I'm sorry, no,
6 Ms. Wagner's questions. You did that towards the end of
7 Ms. Wagner's questions.

8 A. Not classroom, but there are plenty of
9 opportunities, if you're looking for it, to observe a sub's
10 strengths. And I do that.

11 Q. I think you listed some --

12 A. Right.

13 Q. -- interacting with students in the lunchroom, in
14 the halls?

15 A. Yes. And I had also discussed her student teaching
16 with her cooperating teacher. Which I do with all the ones
17 that come through because there you have an opportunity to
18 discuss their teaching skills with another professional. And
19 if I respected their opinion, then I would go and discuss it
20 with them.

21 Q. I understand. But those things that you just
22 described, the things which put you in a position to write
23 that letter and to have a high opinion of her as a sub, those
24 things really didn't allow you to evaluate some basic aspects
25 of Ms. Wagner as a teacher such as whether she knew what the

1 current Pennsylvania standards were? You really couldn't
2 tell that, could you?

3 A. No. I'm not sure I would want to be quizzed on a
4 lot of the legal things either, but I was a pretty good
5 teacher.

6 Q. I'm certainly not suggesting you weren't.

7 A. No. But I mean -- okay. Go ahead. If that's
8 important, no, I don't know if she was a real expert on that.

9 Q. Is it fair to say that they have been changing a lot
10 over the last few years?

11 A. Absolutely.

12 Q. I'm not expecting you to change the way you feel
13 about her as a substitute.

14 A. I'm not.

15 Q. But I sense that you're a little defensive, and I'm
16 not attacking you.

17 A. It's my personality. It comes off that way, but I
18 really don't mean it to be.

19 Q. Are you aware of any people who subbed for a lot of
20 years, you know, before becoming a full-time teacher?

21 A. I know of some. One in particular that subbed for
22 years, became frustrated, and went with another position out
23 of the District.

24 Q. Can you approximate how many years?

25 A. No. Just a lot.

1 Q. More than five?

2 A. Oh, yeah.

3 Q. More than 10?

4 A. No. She -- no.

5 Q. In that range?

6 A. I don't know. Just a long time. And I could feel
7 her -- that person's frustrations, and they went with another
8 position.

9 Q. With another District?

10 A. Yeah.

11 Q. Was she Caucasian?

12 A. No.

13 Q. What was her race?

14 A. Yeah. Caucasian.

15 Q. Okay. Was she born in this Country, to your
16 knowledge?

17 A. Yeah.

18 Q. What was her name?

19 A. Nickie Stockton. Nicole Stockton.

20 Q. Is that the only other -- I'll withdraw that
21 question. If I ask you to assume for a minute that
22 Ms. Wagner began subbing in around August of 2001 and your
23 long-term vacancy came up around November of 2002, that would
24 mean that she was subbing for a little over one full year,
25 right? A year and a few months. Is that fair? I mean, is

1 my math right?

2 A. Sounds right.

3 Q. Is she the only sub that you can think of who subbed
4 that long without getting a long-term vacancy, a long-term
5 substitute position, or have other subs subbed that long or
6 longer? Other than the one you just mentioned.

7 A. You know, I really just don't keep track of that
8 stuff.

9 Q. Sure. I understand. Let me ask it this way then:
10 Does every sub who subs for a year and a half get a full-time
11 job?

12 A. I assume not. They'd have to be good.

13 Q. The service in and of itself doesn't get you in?
14 You might sub for five years, but --

15 A. If you're not good, you wouldn't get asked to be in
16 the room. You know, you have to build a reputation. Not
17 every sub that comes in -- I don't care if they sub for 30
18 years, I wouldn't ask them to come and be my sub on a
19 permanent basis.

20 Q. Is it fair to say that you were never in a position
21 where you would have evaluated candidates for full-time
22 positions with the District? It was not part of your job; is
23 that fair?

24 A. No. I'm a teacher.

25 Q. Well, meaning, you were not in the personnel office

1 and you were not a principal?

2 A. No. I'm just a teacher.

3 Q. In this lawsuit, the District is defending itself on
4 the basis that it chose the most qualified applicant during
5 the relevant years. You don't know who the successful
6 candidates were when Ms. Wagner didn't get jobs, do you? You
7 don't even know who they are?

8 A. No.

9 Q. So, therefore, you can't assess whether the
10 District's defense is believable or not, can you?

11 A. I suppose not.

12 Q. In other words, you don't know who Ms. Wagner was
13 competing with for all these jobs, right?

14 A. No.

15 Q. When you were talking about successful substitutes,
16 you focussed on whether they got done what you needed them to
17 get done, and if not, whether they left you meaningful notes
18 describing what they didn't get done; is that fair?

19 A. Yeah.

20 Q. Is it fair to say that a good substitute is somebody
21 who does that? Basically follows the instructions left for
22 them by the teacher who's not there, you know, follows the
23 orders, executes the orders, and then apprises the regular
24 teacher of what happened during her absence? Is that fair?

25 A. Well, to be honest, your best teachers look at

1 what's outlined, evaluate what's happening during the day,
2 and can make adjustments because things come up. So to say
3 that they go in and regimentally follow what was prescribed,
4 no, that is not your best teacher.

5 Q. Okay.

6 A. But to note the changes during the day and why they
7 were made and stuff like that, that's the sign of a good
8 teacher because you have to bend and -- you know, you have to
9 go with the situations as they happen. And she does that.

10 Q. In a substitute capacity?

11 A. Yeah.

12 Q. That's not something a regular teacher would have to
13 do is leave good notes about what happened for somebody else?
14 They wouldn't do that, right?

15 A. I don't know. I did it all the time for myself.

16 Q. Well, there would be notes for yourself, but not
17 notes for somebody else?

18 A. Right. I just think you develop that habit, but
19 anyway.

20 Q. Did you retire, then, at the end of the '02/'03
21 school year?

22 A. Yeah. This is my second year.

23 Q. So the '03/'04 year you were retired and then the
24 '04/'05?

25 A. Right.

1 Q. So this is the third then?

2 A. No. This is my second year.

3 Q. So you did come back after the leave that we've been
4 talking about?

5 A. Yeah.

6 Q. And worked a full year?

7 A. Yeah.

8 Q. So then that meant you would have worked the '03/'04
9 and retired at the end of '04?

10 A. Yeah. You think I would have that down, but I'm
11 just a little too nervous.

12 Q. You have said a few times that you're nervous, and
13 we've all tried to alleviate that.

14 A. I've been out of the situation.

15 Q. But, for the record, your nervousness hasn't made
16 you give wrong answers, has it?

17 A. I hope not.

18 Q. To your knowledge?

19 A. I'm doing my best.

20 Q. Certainly you're trying your best to be truthful
21 here today, right?

22 A. Yep. I'm honest to a fault I've been told.

23 Q. Do you live near the Wagners?

24 A. We're both from Cochran, yeah. Same side of
25 town.

1 Q. Small town; isn't it?

2 A. Yeah.

3 Q. How many people?

4 A. I don't know. It's a borough.

5 Q. I understand.

6 A. It's a -- not big, it's a borough.

7 Q. Meadville's not big compared to Chicago. Do you
8 know how many people are in it or not?

9 A. Nope.

10 Q. How many streets away is your house from the
11 Wagners' house? Or distance, can you approximate the
12 distance?

13 A. If I tried, and projected, I could say hello to her
14 from the end of my street probably. It's catty-cornered.
15 They're on Franklin, I'm on Third.

16 Q. Okay. And you said, "projected" --

17 A. Well, it's not -- it's not like we're neighbors.
18 It's like you're -- I can look and see the backyard of their
19 house from my front yard.

20 Q. Does your husband golf?

21 A. Yeah.

22 Q. Think he could hit a golf shot into their yard?

23 A. On a good day maybe.

24 Q. You said a few minutes ago that -- well, I withdraw
25 that. Are your families just friendly or are you actual

1 friends?

2 A. Professional.

3 Q. Professional. When you see them, you waive and
4 smile?

5 A. Yeah. I had her son, and so if I -- you know, if
6 you -- you just acknowledge people.

7 Q. And they do it to you?

8 A. Yeah.

9 Q. But you don't socialize with them?

10 A. No.

11 MR. KUHAR: I need a minute, please.

12 (Pause in the proceedings.)

13 MR. NICHOLS: We're back on the record, it's now 10
14 of 12:00. Do you have any more questions,
15 Mr. Kuhar?

16 MR. KUHAR: Yes.

17 Q. In the prior situations, when you had recommended
18 substitutes -- I think I got your testimony right on this,
19 but I'm not sure -- you had recommended someone to be your
20 replacement, but it was approved by the administration,
21 right?

22 A. I assume so. All I did was, like the principal
23 would ask me, is there anybody in particular you'd like to
24 have in your room, and I would say somebody. Because I was
25 always pretty much ready for that.

1 Q. Then the administration recommended to the board,
2 and the board acted upon it?

3 A. I'm telling you what I witnessed. I would just say
4 something to the principal, and it happened.

5 Q. So you don't know whether the administration --

6 A. I assume that you have to go through a procedure of
7 some sort.

8 Q. When you say "you have to go through," you mean the
9 administration would have to go through a procedure?

10 A. Yeah.

11 Q. Let's put it this way: You're not saying that you
12 had the authority to actually make the definitive decision
13 that such and such would be the sub?

14 A. I never thought that was the official policy, but it
15 was, to best of my knowledge, the practice.

16 Q. And a pattern maybe would be a good way of saying
17 it?

18 A. It's just, that's what happened to me.

19 Q. Right. You --

20 A. For all the times up to this I just talked to the
21 principal, and then that's who was in the room.

22 Q. You don't know what happened after you talked to the
23 principal, except that that person ended up in your room?
24 But in between you don't know what did or didn't happen?

25 A. No. I never --

1 Q. You weren't telling the principal, hey, this is who
2 I've chosen, this is who it's going to be, and insisting upon
3 it, right? You just told him what your thoughts were?

4 A. I'm a teacher, I'm not administration.

5 Q. And basically you don't have the authority that he
6 or she would have, right? The principal?

7 A. No. I'm a teacher, and I was asked for my
8 professional opinion, I would offer it, and most of the time,
9 except for this, it was honored.

10 MR. KUHAR: Okay.

11 MR. NICHOLS: Ms. Wagner?

12 MS. WAGNER: No further questions.

13

14 REDIRECT EXAMINATION

15 BY MR. NICHOLS:

16

17 Q. Ms. Pickens, just one final question, and then I'll
18 let you go. That is, when you went on your medical
19 sabbatical in November 2002, when did you return to the
20 classroom? Do you remember?

21 A. The fall of the next year.

22 MR. NICHOLS: Fall of the next year.

23 I want to thank you very much for coming and
24 participating. Thank you very much.

25 THE WITNESS: That's it, huh?

1 MR. KUHAR: You have a decision to make. The court
2 reporter does her best to get this all down
3 correctly, but, of course, sometimes there are
4 mistakes. You have the right to have the court
5 reporter mail a draft transcript to you --

6 THE WITNESS: I would appreciate it.

7 MR. KUHAR: -- or you can waive it and just rely
8 upon her best efforts. Those are your choices.

9 THE WITNESS: I would just like a record of it.

10 MR. KUHAR: Do you want it to be sent to you so you
11 can look for corrections, or do you just want a
12 copy --

13 THE WITNESS: Just a copy of what occurred.

14 MR. KUHAR: So she's waiving her right -- is that
15 how you interpret that? She's waiving her right to
16 review it? It doesn't matter to me.

17 MR. NICHOLS: You don't wish to review it, that's
18 fine.

19 MS. WAGNER: Ms. Pickens, you can review it, and
20 you have an opportunity to correct an error in
21 transcription. So that if a word is something
22 like -- of course, I can't think of a word. But
23 some word that sounds like another word is
24 substituted and you meant a different word, you can
25 correct that.

1 THE WITNESS: I think maybe I better.

2 MS. WAGNER: It's a good idea to review it.

3

4 (Deposition concluded at 11:59 a.m.)

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<p>2</p>		<p>B.....8 [1] 3:11 Bachelor's [1] 5:21 Background [2] 5:19 9:6 Backyard [1] 35:18 Based [5] 10:12 12:10 18:5 19:3 20:2 Basic [1] 28:24 Basis [3] 16:21 24:19 32:4 Bear [1] 27:12 Became [2] 25:6 29:22 Becoming [3] 20:4 20:5 29:20 Began [4] 14:7 25:4 26:6 30:22 Begin [1] 15:17 Believable [1] 32:10 Bend [1] 33:8 Best [13] 11:19 13:25 14:16 18:16 21:9 21:24 32:25 33:4 34:19 34:20 37:15 38:2 38:8 Better [2] 13:2 40:1 Between [3] 18:13 20:10 37:24 Bid [4] 14:4 15:11 17:23 24:9 Bidding [3] 25:17 26:4 26:7 Bib [2] 35:6 35:7 Black [2] 1:16 1:25 Board [7] 1:5 2:6 8:9 9:23 35:9 37:1 37:2 Born [1] 30:15 Borough</p>	<p>C.....9 [1] 3:12 Cafeteria [1] 25:1 Caleb [2] 2:4 4:7 Candidates [6] 22:19 23:9 26:3 26:3 31:21 32:6 Capacity [1] 33:10 Came [1] 31:17 Caring [1] 12:15 Case [1] 1:4 Catty [1] 35:14 Catty-cornered [1] 35:14 Caucasian [2] 30:11 30:14 Central [13] 1:5 1:5 1:9 2:6 2:6 2:10 4:9 5:21 5:25 6:8 7:20 8:9 8:9 Certainly [3] 11:23 29:6 34:20 Chance [1] 8:24 Change [10] 15:22 16:9 16:25 17:1 17:2 17:5 24:9 24:12 27:21 29:12 Changed [2] 15:13 18:4 Changes [2] 17:4 33:6 Changing [1] 29:9 Charles [3] 1:6 2:6 8:10 Charlie [1] 27:14 Check [2] 11:22 18:25 Chicago [1] 35:7 Children [1] 19:17 Choices [1] 29:8 Choose [1] 26:24 Chose [1] 32:4 Chosen [1] 38:2 Clarified</p>
<p>2</p>			
<p>2 [7] 8:13 8:13 8:15 8:15 8:16 9:2 9:8 2000 [1] 6:22 2001 [4] 7:19 11:3 35:5 30:22 2002 [11] 7:21 11:11 11:19 13:14 14:8 14:9 16:25 17:9 27:17 30:23 33:19 2005 [1] 1:18 25 [1] 1:17 27 [1] 17:9</p>			
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<p>A</p>			
<p>A.....8 [1] 3:10 Able</p>			

<p>[2] 27:23 31:9</p> <p>Class</p> <p>[2] 10:22 21:25</p> <p>Classes</p> <p>[1] 11:2</p> <p>Classroom</p> <p>[12] 6:4 7:16 17:9 17:13 17:15 19:6 24:16 24:18 24: 19 24:24 28:8 38:20</p> <p>Clear</p> <p>[7] 4:20 4:23 13:10 15:10 15:19 19:9 19:11</p> <p>Cochran</p> <p>[2] 5:17 34:24</p> <p>Colleague</p> <p>[1] 7:1</p> <p>Colleagues</p> <p>[3] 5:7 7:2 7:8</p> <p>College</p> <p>[1] 7:5</p> <p>Coming</p> <p>[3] 4:8 22:10 38:23</p> <p>Commencing</p> <p>[1] 1:18</p> <p>Commonwealth</p> <p>[1] 1:17</p> <p>Compared</p> <p>[1] 35:7</p> <p>Competing</p> <p>[1] 32:13</p> <p>Complaint</p> <p>[1] 22:6</p> <p>Composed</p> <p>[1] 10:5</p> <p>Concept</p> <p>[1] 19:10</p> <p>Concern</p> <p>[3] 9:23 13:14 26:9</p> <p>Concerning</p> <p>[1] 13:16</p> <p>Concluded</p> <p>[1] 40:4</p> <p>Conducted</p> <p>[1] 17:13</p> <p>Confirm</p> <p>[1] 27:10</p> <p>Confused</p> <p>[1] 20:25</p> <p>Continue</p> <p>[1] 16:16</p> <p>Continued</p> <p>[1] 6:5</p> <p>Conversation</p> <p>[14] 14:19 14:22 16:8 17: 20 18:8 18:13 18:15 18:18 18:20 18:21 18:24 20:10 20: 14 20:19</p> <p>Conversations</p> <p>[1] 13:15</p> <p>Cooperating</p> <p>[2] 24:20 28:16</p> <p>Copy</p> <p>[5] 8:22 8:23 8:25 39:12 39:13</p> <p>Cornered</p> <p>[1] 35:14</p> <p>Correct</p> <p>[6] 7:22 14:8 14:9 24:2 39: 20 39:25</p> <p>Corrected</p> <p>[1] 13:3</p> <p>Corrections</p> <p>[1] 39:11</p> <p>Correctly</p> <p>[1] 39:3</p> <p>Counter</p> <p>[1] 18:11</p> <p>Country</p> <p>[1] 30:15</p> <p>County</p> <p>[4] 1:18 5:22 6:1 6:4</p>	<p>Couple</p> <p>[1] 6:17</p> <p>Course</p> <p>[10] 4:17 6:14 7:5 7:5 8:5 10:14 12:4 22:21 39:3 39:22</p> <p>Court</p> <p>[3] 1:1 39:1 39:4</p> <p>Courthouse</p> <p>[1] 1:19</p> <p>Crawford</p> <p>[17] 1:5 1:5 1:9 1:18 2:6 2:6 2:10 4:9 5:22 5:24 5: 25 6:1 6:6 6:8 7:20 8:8 8:9</p> <p>Cross-Examination</p> <p>[4] 3:5 3:6 23:16 25:5</p> <p>Current</p> <p>[1] 29:1</p>	<p>Dismissed</p> <p>[1] 17:14</p> <p>Disqualified</p> <p>[1] 20:5</p> <p>Disqualify</p> <p>[1] 20:3</p> <p>Distance</p> <p>[2] 35:11 35:12</p> <p>District</p> <p>[23] 1:1 1:1 1:5 2:6 4:9 4: 10 5:8 6:4 6:9 7:20 8:9 8: 18 9:25 12:2 22:14 22:24 25:9 26:24 27:15 29:23 30: 9 31:22 32:3</p> <p>District's</p> <p>[1] 32:10</p> <p>Dolecki</p> <p>[6] 1:6 2:6 8:10 13:16 13: 21 25:10</p> <p>Done</p> <p>[3] 32:16 32:17 32:18</p> <p>Doors</p> <p>[2] 6:17 6:25</p> <p>Down</p> <p>[6] 6:18 6:25 7:3 18:23 34: 10 39:2</p> <p>Dr</p> <p>[2] 9:22 17:20</p> <p>Draft</p> <p>[1] 39:5</p> <p>Drafted</p> <p>[2] 8:17 13:7</p> <p>Drink</p> <p>[1] 5:5</p> <p>Duly</p> <p>[1] 4:2</p> <p>During</p> <p>[14] 4:17 10:13 12:4 16:8 18:7 18:7 22:21 24:23 26: 18 26:23 32:4 32:24 33:1 33:6</p>	<p>Examination</p> <p>[4] 3:4 3:7 4:4 38:14</p> <p>Except</p> <p>[2] 37:23 38:9</p> <p>Excuse</p> <p>[2] 14:23 23:12</p> <p>Executes</p> <p>[1] 32:23</p> <p>Exhibit</p> <p>[16] 3:9 3:10 3:11 3:12 8: 4 8:4 8:6 8:6 8:12 8:19 9: 9 9:11 9:13 10:2 10:9 13:8</p> <p>Exhibits</p> <p>[1] 8:20</p> <p>Expecting</p> <p>[1] 29:12</p> <p>Experience</p> <p>[2] 12:10 16:22</p> <p>Expert</p> <p>[1] 29:8</p> <p>Explaining</p> <p>[1] 15:6</p> <p>Express</p> <p>[1] 22:3</p> <p>Extended</p> <p>[2] 10:25 24:4</p> <p>External</p> <p>[1] 26:22</p>
	D		F
	<p>Date</p> <p>[2] 8:16 14:14</p> <p>Days</p> <p>[10] 10:23 14:2 14:4 15:7 15:22 17:12 17:21 17:23 17: 24 18:3</p> <p>December</p> <p>[1] 16:4</p> <p>Decision</p> <p>[2] 37:12 39:1</p> <p>Defendant</p> <p>[4] 1:10 8:14 9:8 10:3</p> <p>Defendants</p> <p>[4] 1:7 8:8 8:18 25:8</p> <p>Defendants'</p> <p>[1] 8:7</p> <p>Defending</p> <p>[1] 32:3</p> <p>Defense</p> <p>[1] 32:10</p> <p>Defensive</p> <p>[1] 29:15</p> <p>Definitive</p> <p>[1] 37:12</p> <p>Denial</p> <p>[1] 21:13</p> <p>Deposed</p> <p>[1] 4:8</p> <p>Deposition</p> <p>[8] 1:15 3:10 3:11 3:12 4: 18 8:20 9:13 40:4</p> <p>Described</p> <p>[1] 28:22</p> <p>Describing</p> <p>[2] 27:22 32:18</p> <p>Designed</p> <p>[1] 25:24</p> <p>Desk</p> <p>[1] 13:2</p> <p>Develop</p> <p>[1] 33:18</p> <p>Different</p> <p>[5] 19:23 22:23 25:1 25:2 39:24</p> <p>Difficulties</p> <p>[1] 22:4</p> <p>Direct</p> <p>[3] 3:4 4:4 20:23</p> <p>Directed</p> <p>[2] 8:8 21:3</p> <p>Discipline</p> <p>[3] 12:12 19:7 24:23</p> <p>Discrimination</p> <p>[1] 22:15</p> <p>Discuss</p> <p>[3] 14:15 28:18 28:19</p> <p>Discussed</p> <p>[2] 24:19 28:15</p> <p>Discussion</p> <p>[4] 7:25 13:19 13:25 18:5</p> <p>Discussions</p> <p>[1] 25:2</p>	<p>Early</p> <p>[1] 19:14</p> <p>Edinboro</p> <p>[1] 5:20</p> <p>Education</p> <p>[5] 1:9 2:10 5:23 6:3 23:20</p> <p>Effective</p> <p>[1] 27:25</p> <p>Efficient</p> <p>[1] 25:25</p> <p>Efforts</p> <p>[1] 39:8</p> <p>Either</p> <p>[1] 29:4</p> <p>Elementary</p> <p>[4] 25:21 26:2 26:6 26:17</p> <p>Employed</p> <p>[3] 4:10 5:22 5:23</p> <p>End</p> <p>[8] 12:3 15:17 24:5 28:5 28:6 33:20 34:9 35:14</p> <p>Ended</p> <p>[1] 37:23</p> <p>Enjoying</p> <p>[2] 4:14 15:18</p> <p>Erie</p> <p>[3] 1:4 2:5 2:9</p> <p>Error</p> <p>[1] 39:20</p> <p>Esquire</p> <p>[3] 2:4 2:8 2:11</p> <p>Establishing</p> <p>[1] 16:2</p> <p>Estimate</p> <p>[2] 6:21 11:19</p> <p>Evaluate</p> <p>[4] 10:22 12:5 28:24 33:1</p> <p>Evaluated</p>	<p>Face</p> <p>[3] 20:14 21:20 21:21</p> <p>Fair</p> <p>[7] 29:9 30:25 31:20 31:23 32:18 32:20 32:24</p> <p>Fall</p> <p>[2] 38:21 38:22</p> <p>False</p> <p>[1] 26:19</p> <p>Families</p> <p>[1] 35:25</p> <p>Fashion</p> <p>[1] 12:24</p> <p>Fault</p> <p>[1] 34:22</p> <p>February</p> <p>[1] 27:17</p> <p>Feelers</p> <p>[1] 19:23</p> <p>Feelings</p> <p>[1] 21:14</p> <p>Ferguson</p> <p>[1] 1:25</p> <p>Few</p> <p>[7] 4:16 21:13 25:8 29:10 30:25 34:12 35:24</p> <p>Filed</p> <p>[1] 22:12</p> <p>Files</p> <p>[1] 19:1</p> <p>Filled</p> <p>[4] 25:22 26:3 26:7 26:22</p> <p>Final</p> <p>[1] 38:17</p> <p>Fine</p> <p>[3] 10:7 22:1 39:18</p> <p>Finish</p> <p>[4] 12:19 15:2 15:3 25:23</p> <p>First</p> <p>[7] 4:1 4:18 7:3 8:7 11:6 12:22 24:13</p> <p>Five</p> <p>[3] 11:21 30:1 31:14</p> <p>Focus</p> <p>[1] 8:12</p> <p>Focussed</p> <p>[1] 32:16</p> <p>Follow</p> <p>[3] 12:20 22:18 33:3</p> <p>Follow-up</p>
	E		

<p>[1] 12:2 Follows [3] 4:2 32:21 32:22 Formally [1] 8:1 Forward [1] 5:19 Four [2] 11:21 17:12 Frame [1] 14:6 Franklin [1] 35:15 Frequently [1] 11:22 Friendly [1] 35:25 Friends [1] 36:1 Front [1] 35:19 Frustrate [1] 27:12 Frustrated [1] 29:22 Frustration [1] 21:13 Frustrations [2] 22:3 30:7 Full [8] 5:14 20:4 20:5 29:20 30:24 31:10 31:21 34:6 Full-time [5] 20:4 20:5 29:20 31:10 31:21</p>	<p>[2] 13:16 2:4 31:15 16 13:21 13:22 13:23 14:15 16:9 17:9 17:20 18:5 18:13 18:21 20:8 20:11 20:20 21: 7 21:8 25:9 27:14 Heller's [2] 16:25 18:9 Hello [1] 35:13 Help [2] 7:11 13:5 Hereto [1] 8:19 High [1] 28:23 Hired [1] 26:17 Hit [1] 35:22 Holdnack [1] 1:25 Holidays [1] 16:4 Honest [2] 32:25 34:22 Honestly [1] 18:14 Honored [2] 14:21 38:9 Hope [3] 4:20 27:1 34:17 House [3] 35:10 35:11 35:19 Hum [4] 10:16 17:16 18:1 27:16 Husband [1] 35:20</p>	<p>J January [3] 15:12 15:15 15:16 Job [5] 7:14 7:15 13:6 31:11 3:22 Jobs [2] 26:32 Joined [1] 27:4 Joye [3] 11:53 35:15</p> <p>K Keep [2] 12:13 37 Kid [1] 19:12 Kids [2] 11:16 12:14 Kind [2] 16:20 21:9 Knowledge [3] 30:16 31:18 37:15 Knox [1] 28 Kihar [10] 28:5 25:7 12:19 15: 20:17 21:6 21:11 22:5 23:23 13:25 6:36 11:32 15:36 16:3 10:31 27 30:9 34 Kihar.....25 [1] 36</p>	<p>Lunchroom [1] 28:13</p> <p>M Mail [1] 39:5 Maintain [2] 12:12 12:23 Mannerism [1] 12:13 Mark [2] 2:8 8:3 Marked [4] 8:20 9:9 9:10 9:13 Master's [1] 5:21 Material [1] 19:15 Math [1] 31:1 Matter [1] 39:16 McCune [1] 2:11 McLaughlin [1] 2:8 Meadville [1] 1:19 Meadville's [1] 35:7 Mean [10] 5:24 6:21 19:13 20:15 22:6 29:7 29:18 30:24 30: 25 37:8 Meaning [1] 31:25 Meaningful [1] 32:17 Means [3] 5:2 5:3 22:25 Meant [2] 34:8 39:24 Medical [2] 10:14 38:18 Members [1] 23:8 Memory [1] 18:16 Mentioned [2] 13:15 31:6 Message [1] 12:13 Met [1] 14:15 Meter [3] 17:12 18:8 18:12 Michael [3] 1:6 2:6 8:10 Might [3] 5:18 8:3 31:14 Mind [1] 13:8 Mine [1] 26:9 Minute [2] 30:21 36:11 Minutes [1] 35:24 Mistakes [1] 39:4 Moment [1] 23:12 Months [1] 30:25 Most [7] 6:9 19:20 26:24 27:23 27:23 32:4 38:8 Mostly [1] 12:9</p>
<p>G Game [1] 21:15 Games [3] 13:1 19:25 21:15 General [2] 14:16 14:17 Given [1] 8:14 Golf [2] 35:20 35:22 Gornall [1] 2:8 Grade [1] 7:3 Graduated [1] 5:20 Grievances [1] 22:12 Guess [2] 15:18 16:24 Guilty [1] 21:16</p>	<p>I Idea [1] 40:2 Identification [2] 8:21 9:14 III [3] 1:6 2:7 8:10 Immediate [1] 21:12 Important [1] 29:8 Impressed [1] 13:5 Inc [1] 1:25 Information [3] 9:6 26:10 26:13 Input [1] 24:6 Insisting [1] 38:2 Instructional [1] 4:17 Instructions [1] 32:21 Interacting [1] 28:13 Interaction [1] 21:22 Interpret [1] 39:15 Interruption [1] 6:10 Interviews [1] 27:4 Involved [2] 23:10 27:4 Issue [1] 16:18 Itself [2] 31:13 32:3</p>	<p>L Last [4] 15:2 15:3 32:2 29:10 Lawsuit [2] 48:32 Leave [7] 10:25 14:5 24:2 24: 35 33:13 31:3 Leaves [2] 16:13 32:1 Leaving [1] 13:4 Left [5] 12:22 13:2 19:9 21:7 32:1 Legal [1] 24 Lesson [3] 11:16 19:3 21:5 Letter [18] 8:17 8:19 9:9 10:9: 10:9 12:9 16:9 18:9 20: 20:4 10:12 13:7 13:13 13:19 18:6 18:23 23: Lie [1] 19:6 Life [1] 12:10 Lined [2] 16:5 16:6 Listed [1] 21:1 Live [1] 31:23 Long-term [5] 21:4 22:4 23:3 31:4 31:4 Look [4] 12:21 23:3 18:2 11 Looking [1] 29:9 Loop [1] 15:18 Louise [1] 5:15</p>	<p>L Meaningful [1] 32:17 Means [3] 5:2 5:3 22:25 Meant [2] 34:8 39:24 Medical [2] 10:14 38:18 Members [1] 23:8 Memory [1] 18:16 Mentioned [2] 13:15 31:6 Message [1] 12:13 Met [1] 14:15 Meter [3] 17:12 18:8 18:12 Michael [3] 1:6 2:6 8:10 Might [3] 5:18 8:3 31:14 Mind [1] 13:8 Mine [1] 26:9 Minute [2] 30:21 36:11 Minutes [1] 35:24 Mistakes [1] 39:4 Moment [1] 23:12 Months [1] 30:25 Most [7] 6:9 19:20 26:24 27:23 27:23 32:4 38:8 Mostly [1] 12:9</p>
<p>H Habit [2] 10:22 33:18 Half [1] 31:10 Hall [1] 7:3 Halls [1] 28:14 Hallway [1] 25:1 Handle [1] 24:23 Handled [1] 24:25 Harassment [1] 22:17 Heard [2] 21:19 21:20 Heller</p>	<p>H Habit [2] 10:22 33:18 Half [1] 31:10 Hall [1] 7:3 Halls [1] 28:14 Hallway [1] 25:1 Handle [1] 24:23 Handled [1] 24:25 Harassment [1] 22:17 Heard [2] 21:19 21:20 Heller</p>	<p>H Habit [2] 10:22 33:18 Half [1] 31:10 Hall [1] 7:3 Halls [1] 28:14 Hallway [1] 25:1 Handle [1] 24:23 Handled [1] 24:25 Harassment [1] 22:17 Heard [2] 21:19 21:20 Heller</p>	<p>H Habit [2] 10:22 33:18 Half [1] 31:10 Hall [1] 7:3 Halls [1] 28:14 Hallway [1] 25:1 Handle [1] 24:23 Handled [1] 24:25 Harassment [1] 22:17 Heard [2] 21:19 21:20 Heller</p>

N	Occur	Person	Proceedings
Name (4) 5:14 9:11 16:16 30:18 Nature (2) 4:17 13:25 Near (1) 31:23 Nest (1) 12:3 Need (1) 3:11 Needed (1) 2:16 Needs (2) 12:19 13:5 Neighbors (1) 35:17 Nervous (5) 27:13 31:11 34:12 Nervousness (1) 34:15 Never (8) 10:31 16:18 23:23 24:25 27:11 31:20 37:14 37:25 Next (4) 11:16 12:21 33:21 36:22 Nichols (14) 2:4 4:7 8:22 8:21 9:2 9:5 10:10 10:22 23:12 36:13 38:11 38:15 38:22 39:17 Nichols' (1) 35:5 Nichols.....4 (1) 3:4 Nichols.....38 (1) 3:7 Nickie (1) 33:19 Nicole (1) 33:19 None (1) 35:16 Notary (1) 1:16 Note (2) 20:17 33:6 Notes (8) 12:4 13:4 15:9 19:13 32:17 33:13 33:16 33:17 Notice (1) 24:23 November (5) 11:11 11:19 12:14 14:8 17:8 17:8 17:9 30:23 33:19	Occurred (1) 23:21 October (2) 18:8 39:13 Offer (1) 1:17 Office (1) 36:8 Official (7) 7:25 13:20 13:24 18:9 18:10 18:11 31:25 Officials (2) 14:5 37:14 One (12) 7:2 16:12 17:7 19:5 19:24 23:2 23:12 23:22 29:21 30:24 31:6 38:17 Open (1) 28:16 Openings (1) 22:10 Opinion (3) 28:19 28:23 38:8 Opportunities (1) 28:9 Opportunity (4) 7:7 12:5 28:17 39:20 Order (2) 12:23 13:1 Orderly (1) 12:23 Orders (2) 32:23 32:23 Organization (1) 19:7 Outlined (1) 33:1 Outside (2) 26:3 26:18 Overheard (1) 20:22 Owned (1) 6:4	Person's (1) 30:7 Personable (1) 12:15 Personality (1) 29:17 Personnel (1) 31:25 Pickens (20) 1:15 3:3 3:10 3:11 3:12 4:5 4:7 5:15 5:16 8:17 8:20 9:4 9:10 9:11 9:11 9:13 16:11 23:19 38:17 39:19 Pittsburgh (1) 2:12 Plaintiff (2) 1:3 2:3 Plaintiff's (2) 8:7 8:15 Play (2) 21:1 21:15 Player (1) 21:15 Playing (5) 20:8 20:12 20:14 20:24 21:4 Pleasant (1) 12:12 Plenty (1) 28:8 Point (2) 20:18 27:11 Policy (5) 15:6 16:10 16:12 24:12 37:14 Politics (7) 20:9 20:12 20:14 20:24 21:1 21:4 21:23 Pose (1) 5:6 Position (13) 14:7 20:9 21:5 21:23 21:24 22:5 22:9 25:12 28:22 29:22 30:8 31:5 31:20 Positions (6) 22:20 23:9 25:21 26:2 26:6 31:22 Possible (2) 4:21 4:24 Potential (1) 22:19 Practice (4) 16:10 16:13 16:22 37:15 Precise (1) 14:10 Preliminary (1) 4:16 Prepared (2) 9:10 9:16 Prescribed (1) 33:3 Pretty (6) 13:10 16:14 19:22 20:18 29:4 36:25 Previously (1) 4:10 Principal (11) 14:21 14:23 16:14 16:15 32:1 36:22 37:4 37:21 37:23 38:1 38:6 Private (1) 18:11 Privy (2) 18:8 18:12 Problem (3) 15:8 15:9 15:24 Procedure (2) 37:6 37:9 Proceed (1) 5:10	Professional (5) 25:2 28:18 36:2 36:3 38:8 Projected (2) 35:13 35:16 Public (1) 1:16 Pursuant (1) 8:5 Put (3) 13:1 28:22 37:11
O	P	Q	R
Objection (2) 8:18 20:17 Oblige (1) 5:1 Observation (4) 17:10 17:13 19:2 19:4 Observations (1) 20:2 Observe (5) 7:10 7:16 12:16 20:3 24:15 24:17 24:22 28:9 Observed (5) 10:20 11:2 24:18 24:25 28:4 Obtain (1) 20:9 Obtained (1) 22:9 Obtaining (1) 22:4 Occasion (3) 10:19 18:22 20:7 Occasions (1) 11:24	P.O. (1) 2:4 Page (2) 8:13 8:15 Paragraph (5) 8:13 8:15 9:2 9:4 9:8 Pardon (1) 9:19 Part (2) 8:12 31:22 Participating (1) 38:24 Particular (2) 29:21 36:23 Pattern (1) 37:16 Pause (1) 36:12 PC (1) 2:8 Pennsylvania (5) 1:1 1:17 1:19 5:17 29:1 People (8) 24:22 26:3 26:7 26:25 29:19 35:3 35:8 36:6 Performance (1) 28:4 Period (3) 18:7 26:18 26:23 Permanent (2) 25:12 31:19	Qualified (2) 26:24 32:4 Qualities (2) 12:11 12:16 Questioning (1) 9:3 Questions (12) 5:6 5:9 5:11 23:13 23:19 25:3 27:9 28:5 28:6 28:7 36:14 38:12 Quit (1) 14:12 Quiz (1) 11:16 Quizzed (1) 29:3	Race (1) 30:13 Range (1) 30:5 Read (1) 10:12 Ready (1) 36:25 Real (1) 29:8 Really (8) 11:15 19:15 22:8 27:2 28:24 29:1 29:18 31:7 Reason (4) 26:14 26:18 26:23 27:24 Reasons (1) 10:16 Receipt (1) 9:8 Receive (1) 10:3 Received (2) 8:5 8:18 Recent (1) 6:9 Recognize (2) 9:12 10:4 Recollect (1) 14:1 Recollection (1) 21:9 Recommend (1) 24:1 Recommendations (1) 22:22 Recommended (6) 22:19 23:8 23:9 36:17 36:19 37:1 Record (12) 4:19 4:25 4:25 5:3 5:4 5:14 8:3 9:5 11:25 34:15 36:13 39:9 Records (4) 11:22 22:23 23:24 26:20 Redirect (2) 3:7 38:14 Reduced (1) 18:22

<p>Regimentally [1] 33:3 Regular [2] 32:23 33:12 Relay [1] 15:20 Relevant [1] 32:5 Rely [1] 39:7 Remark [3] 20:23 21:3 21:19 Remarks [1] 4:16 Remember [17] 9:18 14:16 18:14 18: 16 18:20 18:25 20:13 21:14 21:21 23:1 23:3 23:4 23:5 23:6 27:10 27:10 38:20 Replace [2] 14:18 18:7 Replacement [2] 13:17 36:20 Replacing [1] 14:7 Reported [1] 1:25 Reporter [2] 39:2 39:5 Reporting [1] 1:25 Represent [1] 25:8 Representing [1] 23:20 Represents [2] 5:7 5:8 Reputation [1] 31:16 Request [10] 7:24 8:1 8:7 8:13 8: 15 10:16 10:18 14:21 16:12 17:24 Requested [3] 7:23 11:14 15:5 Requesting [2] 15:8 18:6 Reside [1] 5:16 Respected [1] 28:19 Response [2] 20:1 21:12 Responses [2] 4:19 8:7 Restroom [1] 5:5 Results [3] 24:18 24:20 24:21 Retire [1] 33:20 Retired [4] 4:12 6:6 33:23 34:9 Retirement [4] 4:14 6:9 15:19 21:10 Return [1] 38:19 Returned [1] 28:1 Review [4] 39:16 39:17 39:19 40:2 Rights [3] 25:17 26:4 26:7 Room [15] 5:23 6:5 11:3 12:22 12:23 12:25 14:12 15:24 16: 16 17:22 17:23 31:16 36:24 37:21 37:23 Rowena [2] 1:2 15:20 Rumors</p>	<p>S Sabbatical [8] 7:22 10:14 10:14 14:25 15:4 15:7 18:7 38:19 Sabbaticals [1] 14:20 Satisfied [3] 11:1 11:15 11:17 School [17] 1:5 1:5 2:6 2:6 4:9 4: 10 5:8 6:8 7:20 8:9 8:9 9: 25 12:2 22:14 22:24 25:9 33:21 Searching [1] 21:10 Second [5] 6:7 14:25 15:4 33:22 34:2 Secretary's [1] 18:10 See [5] 9:1 10:9 17:24 35:18 36:3 Seek [1] 4:19 Selecting [2] 24:6 24:6 Semester [3] 23:21 23:23 24:5 Semesters [14] 14:3 14:3 14:4 15:10 15:10 15:12 15:13 15:17 15: 22 16:5 16:6 16:7 17:21 24: 5 Send [1] 18:22 Sennett [1] 2:8 Sense [1] 29:15 Sent [5] 9:18 9:20 9:21 9:23 39: 10 Sequence [1] 15:14 Seriously [1] 13:6 Service [2] 11:14 31:13 Set [1] 18:23 Sexual [1] 22:17 Shaking [1] 26:1 Shannon [1] 2:11 Shot [1] 35:22 Show [1] 9:11 Shows [1] 8:4 Sick [11] 10:23 14:2 14:4 15:7 15:22 17:21 17:23 17:24 18: 3 24:2 24:4 Side [1] 34:24 Sign [1] 33:7 Simply [2] 18:24 21:2 Single [1] 26:17 Sitting [1] 22:25 Situation [4] 24:16 24:18 24:19 34:14 Situations</p>	<p>Skills [1] 28:18 Small [1] 35:1 Smile [1] 36:4 Socialize [1] 36:9 Someone [4] 20:13 21:18 24:6 36:19 Sometime [1] 15:15 Sometimes [3] 11:13 12:24 39:3 Son [1] 36:5 Sondra [2] 1:16 1:25 Sorry [1] 28:5 Sort [2] 25:11 37:7 Sounds [2] 31:2 39:23 South [1] 2:12 Speaking [1] 16:21 Special [2] 5:23 6:3 Specify [1] 8:16 Standards [1] 29:1 Standing [1] 18:17 Start [2] 5:18 10:22 Started [8] 5:12 5:25 7:4 7:19 11: 3 11:4 16:2 25:22 State [2] 5:14 5:20 States [2] 1:1 8:14 Stating [1] 9:6 Stayed [1] 24:8 Stockton [2] 30:19 30:19 Stood [1] 19:15 Stop [1] 8:2 Street [4] 2:9 2:12 5:17 35:14 Streets [1] 35:10 Strengths [4] 19:5 19:6 27:22 28:10 Stress [1] 19:12 Student [9] 6:17 6:24 7:1 7:9 7:12 7:17 12:5 24:20 28:15 Students [2] 24:25 28:13 Stuff [4] 10:23 17:5 31:8 33:7 Sub [20] 10:17 10:23 10:24 11: 5 11:14 14:4 17:24 18:4 21: 24 24:7 24:21 27:25 28:23 31:3 31:10 31:14 31:17 31: 17 31:18 37:13 Sub's [1] 28:9 Subbed [9] 10:21 11:6 11:7 11:12</p>	<p>Subbing [8] 10:20 11:8 24:11 24:21 25:22 26:5 30:22 30:24 Subpoena [1] 8:5 Subs [4] 19:10 22:7 31:5 31:10 Subsequent [1] 13:15 Subsequently [2] 17:12 17:14 Substitute [15] 7:19 7:21 10:13 10:19 12:8 12:9 14:18 18:6 22:11 24:1 27:23 29:13 31:5 32: 20 33:10 Substituted [2] 19:4 39:24 Substitutes [2] 32:15 36:18 Substituting [1] 7:4 Successful [2] 32:5 32:15 Suggesting [1] 29:6 Suing [1] 4:9 Superintendent [6] 1:6 1:7 2:6 2:7 8:10 8: 11 Suppose [1] 32:11 Supposed [1] 11:17 Surprised [9] 14:19 15:19 16:20 17:7 17:14 17:17 17:19 18:3 25: 11 Sworn [1] 4:2 T Task [1] 19:7 Taught [5] 6:17 7:1 7:1 12:1 24:20 Teach [3] 6:24 7:19 23:11 Teacher [23] 6:2 6:12 7:17 12:11 15:5 19:6 20:4 20:5 24:20 26:17 28:16 28:25 29:5 29: 20 31:24 32:2 32:22 32:24 33:4 33:8 33:12 38:4 38:7 Teachers [10] 7:18 12:5 12:8 12:9 22:9 22:11 23:7 25:11 25: 17 32:25 Teaching [17] 7:9 7:12 12:10 14:12 19:3 20:3 20:9 21:4 22:4 22:20 23:9 24:24 27:16 27: 20 28:4 28:15 28:18 Tenth [1] 2:9 Tenure [2] 6:8 22:21 Term [5] 21:4 22:4 30:23 31:4 31:4 Terms [1] 7:12 Testified [1] 4:2 Testimony [1] 36:18 Thanksgiving [2] 16:3 16:3 Therefore [1] 32:9 Third</p>
--	---	--	--

[3] 5:17
Thoughts
 [1] 38:3
Three
 [1] 11:24
Timing
 [1] 13:18
Today
 [6] 4:8 8:5 19:23 22:25 23:20 34:21
Took
 [4] 13:5 23:21 23:23 23:23
Totally
 [1] 19:24
Towards
 [2] 28:4 28:6
Town
 [2] 34:25 35:1
Track
 [2] 26:13 31:7
Train
 [1] 10:25
Training
 [2] 10:22 11:3
Transcribed
 [1] 4:20
Transcript
 [1] 39:5
Transcription
 [1] 39:21
Trick
 [1] 27:9
Tried
 [3] 21:23 34:13 35:13
Trouble
 [1] 13:12
True
 [2] 26:21 28:2
Truthful
 [1] 34:20
Try
 [2] 4:23 7:10
Trying
 [5] 21:22 27:9 27:9 27:12 34:20
Tuesday
 [1] 1:17
Turn
 [1] 19:2
Two
 [4] 5:22 6:25 11:23 19:5

U

Um-hum
 [8] 4:11 6:15 7:6 10:16 17:16 18:1 24:3 27:16
Under
 [1] 7:2
Undergraduate
 [1] 5:19
Understandable
 [2] 4:21 4:23
Understood
 [2] 15:20 20:22
Uninterrupted
 [1] 6:10
Union
 [4] 5:9 23:7 23:8 23:8
UNITED
 [1] 1:1
University
 [1] 5:20
Up
 [18] 4:23 10:24 12:20 13:3 14:3 14:3 15:7 15:10 15:11 16:5 16:7 17:21 17:23 24:8 30:23 33:2 37:20 37:23
Upset
 [1] 21:17

Vacancy
 [2] 30:314
Vague
 [3] 8:16 20:18 21:17
Verbal
 [1] 18:24
Verbalize
 [1] 4:18
View
 [1] 25:13
Virginia
 [1] 4:22
Voice
 [1] 4:22

W

Wagner
 [45] 1:22 11:48 58:6 14:6 158:22 91:93 109:10:11 10:13 10:13 14:7 14:7 17:10 17:13 18:6 20:20 29:30 11:30 33:30 35:21 32:42 19:22 33:53 14:23 17:24 11:24 15:33 25:11 25:22 36:47 19:38 53:22 32:6 21:23 11:39 12:39 19:42
Wagner's
 [6] 13:16 19:30 22:7 22:36 37
Wagner.....23
 [1] 35
Wagners
 [1] 31:23
Wagners'
 [1] 35:11
Waive
 [2] 36:39 7
Waiving
 [2] 8:17 9:14 9:15
West
 [1] 29
WESTERN
 [1] 11
Whole
 [4] 7:24 15:21 23:24 25:23
Wish
 [4] 4:24 5:14 10:39 17
Withdraw
 [2] 30:30 32:1
WITNESS
 [10] 54:23 22:34 23:6 27:20 35:39 6:39 9:13 40:1
Witnessed
 [1] 37:3
Wondering
 [1] 54
Word
 [5] 39:21 39:22 39:23 39:24 39:24
Words
 [2] 36:32 12
World
 [1] 16:4
Wow
 [1] 19:24
Write
 [1] 32:2
Writing
 [2] 18:22 18:23
Written
 [1] 32:2
Write
 [2] 13:13 13:19

Y

Yard
 [2] 5:19 5:22
Year

[1] 11:20 12:10 23:13:11 21:25 23:24 30:24 30:25 31:10 33:21 33:22 33:23 34:2 34:6 38:21 38:22
Years
 [12] 5:22 6:19 12:1 12:4 16:21 29:10 29:20 29:22 29:24 31:14 31:18 32:5
Yourself
 [1] 33:16

C E R T I F I C A T I O N

I, Sondra A. Black, a Court Reporter and Notary
Public in and for the Commonwealth of Pennsylvania, do
hereby certify that the foregoing is a true and accurate
transcript of my stenographic notes in the
above-captioned matter.

Sondra A Black

Dated: *November 4, 2005*

Notarial Seal
Sondra A. Black, Notary Public
Waterford Twp., Erie Co.
Commission Expires Aug
Pennsylvania Association